

NURSING BOARD[655]

Notice of Intended Action

Proposing rule making related to Iowa nurse assistance program and providing an opportunity for public comment

The Board of Nursing hereby proposes to amend Chapter 19, “Iowa Nurse Assistance Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 272C.3(1)“k.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

On October 9, 2019, the Board voted to decline to issue a declaratory order in response to a petition on the basis that the issue raised was better addressed through the rule-making process. On November 6, 2019, the Board issued a written ruling formalizing its reasons for declining to issue the order.

This proposed rule making now addresses the issue raised by the petition for declaratory order and clarifies the scope of the Board’s jurisdiction to impose discipline against a current participant in the Iowa Nurse Assistance Program. This rule making clarifies that, consistent with the jurisdictional authority provided in Iowa Code section 272C.3(1)“k,” a participant’s entrance into an initial agreement or contract with the program committee does not divest the Board of its authority to discipline a current participant in circumstances involving out-of-state discipline or criminal convictions, notwithstanding any relation to the participant’s impairment. This rule making also clarifies that a current participant shall be referred to the Board for appropriate action if that participant is alleged to have violated a statute or Board rule based on conduct unrelated to the participant’s impairment.

This rule making also updates the language in Chapter 19 to reflect modern terminology for defining qualifying impairments. Additionally, this rule making clarifies that any self-report from applicants or licensees must be submitted in a written form as opposed to verbally. This is to assist in record keeping and clarity of the histories of participants.

This rule making updates the definition of treatment providers from “approved” by the Board to “recognized” by the Board, while still allowing the Board to retain the authority to approve treatment providers. This change is in response to confusion by participants as to which online list or providers they should refer.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 17, 2020. Comments should be directed to:

Kathy Weinberg
Iowa Board of Nursing
400 S.W. Eighth Street, Suite B
Des Moines, Iowa 50309
Email: kathy.weinberg@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 17, 2020
9 to 10 a.m.

Board Office, Suite B
400 S.W. Eighth Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 655—19.1(272C) as follows:

655—19.1(272C) Iowa nurse assistance program committee. Pursuant to the authority of Iowa Code section 272C.3(1) “k,” the board establishes the Iowa nurse assistance program committee (INAPC), formerly known as the licensee review committee, to implement the Iowa nurse assistance program (INAP). The purpose of the INAPC is to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of ~~alcohol or drug abuse, dependency, or addiction, or by any substance use disorder or any mental or physical disorder or disability~~ health condition, while protecting the health, safety and welfare of the public.

ITEM 2. Amend rule **655—19.2(272C)**, definition of “Approved treatment provider,” as follows:
“~~Approved~~ Recognized treatment provider” means a licensed health care provider with board-approved expertise in substance use ~~disorder~~ disorders or mental or physical health conditions.

ITEM 3. Amend subrule 19.4(1) as follows:

19.4(1) Self-report. An applicant or a licensee shall provide a written self-report of an impairment or potential impairment directly to the program.

ITEM 4. Amend subrule 19.4(5) as follows:

19.4(5) Authority and jurisdiction of the board over participants.

a. Participation in the program A participant's entrance into an initial agreement or contract with the INAPC does not divest the board of its authority or jurisdiction over the participant.

b. A participant's entrance into an initial agreement or contract with the INAPC specifically does not divest the board of its authority or jurisdiction to impose discipline against a participant who receives a criminal conviction or discipline from another state's licensing agency, regardless of whether the conduct resulting in the conviction or out-of-state discipline is related to the participant's impairment, and regardless of whether the conviction or out-of-state discipline occurred prior to or after the participant entered into the initial agreement or contract with the INAPC.

c. A participant with an impairment or potential impairment Participants may be eligible to participate continue participating in the program, subject to the INAPC's discretion, while being subject to investigation or discipline by the board for matters other than the alleged conduct unrelated to the participant's impairment.

ITEM 5. Amend rule 655—19.6(272C) as follows:

655—19.6(272C) Limitations Referral to the board. ~~Participation in the INAP shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. A~~ If a participant who violates is alleged to have violated a statute or board administrative rule, which based on conduct that is unrelated to the participant's impairment, the INAPC shall be referred refer the participant to the board for appropriate action.